

**THE BOARD OF COUNTY COMMISSIONERS
DURHAM, NORTH CAROLINA**

Monday, August 11, 2008

7:00 P.M. Regular Session

MINUTES

Place: Commissioners' Room, second floor, Durham County Government Administrative Complex, 200 E. Main Street, Durham, NC

Present: Chairman Ellen W. Reckhow, Vice-Chairman Michael D. Page, and Commissioners Lewis A. Cheek, Philip R. Cousin Jr., and Becky M. Heron

Absent: None

Presider: Chairman Reckhow

Opening of Regular Session

Chairman Reckhow welcomed everyone to the Monday, August 11, 2008 Regular Session of the Board of County Commissioners. She requested that persons rise for the Pledge of Allegiance to the Flag.

Welcome

Chairman Reckhow welcomed County Manager Mike Ruffin to the meeting. (He had been absent for an extended period due to medical issues.)

Chairman Reckhow formally thanked Deputy County Manager Carolyn Titus for doing a great job as Acting County Manager during County Manager Ruffin's absence.

Motion to Excuse Chairman Reckhow

Commissioner Heron moved, seconded by Commissioner Cheek, to excuse Chairman Reckhow from the August 25, 2008 Regular Session. (She would be attending the Democratic National Convention.)

The motion carried unanimously.

Announcements

Chairman Reckhow announced that on August 25 at 7:00 p.m., the Board of County Commissioners will hold a public hearing on the "Concept of Animal Tethering". The Durham County Animal Control Advisory Committee (ACAC) is recommending an

amendment to the current Animal Control Ordinance concerning animal tethering restrictions. Copies of the proposed changes are available in the Clerk to the Board's office.

Commissioner Heron announced that the July 29 public meeting at the Main Street Library to receive citizen input regarding services was very interesting.

Minutes

Commissioner Cheek moved, seconded by Vice-Chairman Page, to approve as submitted the July 28, 2008 Regular Session Minutes of the Board.

The motion carried unanimously.

Recognition of High School Students Participation in the 2008 "Student Construction Training Program" with Durham Affordable Housing Coalition

Vice-Chairman Page announced that participants of Durham Affordable Housing Coalition's "Student Construction Training Program" would be recognized for their excellent work on several homes in Northeast Central Durham and Birchwood Heights during spring and summer breaks. He congratulated all of the participants of the 2008 Student Construction Training Program. Vice-Chairman Page recognized Mr. George Digsby, local contractor who teaches carpentry at Southern High School, who trained the students in real-life carpentry skills.

Ten students gained significant work experience in addition to carpentry skills over the period.

Participants included:

Nicolas Isaac, Southern High School	Lucas Ornelas, Southern High School
Daniel Rodriguez, Southern High School	Jonathan Carroll, Southern High School
Frederick Spain, New Horizons School	Messiah Gattis, Southern High School
Matthew Starks, New Horizons School	Daniel Hinton, New Horizons School
Mark Warren, Hillside High School	Langston Hines, Southern High School

Mr. Digsby spoke about the program and the projects completed by the students in a three-week period (one week in the spring; two in the summer). The students built five ramps and one handrail and rebuilt one porch; they also demolished an existing, unsafe ramp prior to building one of the new ramps and repaired a handrail. He recognized program participants and thanked the Commissioners for the acknowledgement.

Vice-Chairman Page recognized Mr. Bryson from Southern High School who was instrumental in the leadership of the program. He thanked both Mr. Digsby and Mr. Bryson for their time and effort with the students and for helping Durham's citizens.

Chairman Reckhow thanked Vice-Chairman Page for bringing this item to the Board's attention.

Proclamation for Women's Equality Day 2008

Chairman Reckhow announced that August 26, 2008 has been declared Women's Equality Day in Durham County. Women of Durham County will gather under the guidance of Durham County Women's Commission to recognize contributions made by women of Durham, North Carolina.

Chairman Reckhow read the following proclamation into the record:

PROCLAMATION

WHEREAS, the women of the United States were treated as second-class citizens and were not entitled to the full rights and privileges, public or private, legal or institutional, which were available to male citizens of the United States; and

WHEREAS, the women of the United States have united to assure that these rights and privileges are available to all citizens equally regardless of sex; and

WHEREAS, the women of the United States have designated August 26, the anniversary date of the passage of the Nineteenth Amendment, as a symbol of the continued fight for equal rights; and

WHEREAS, the women of the United States are to be commended and supported in their organizations and activities; and

WHEREAS, it was resolved as a Joint Resolution of Congress in 1971 by the Senate and House of Representatives of the United States of America that August 26 of each year is designated as "Women's Equality Day". The President authorized and requested that a proclamation be issued annually in commemoration of that day in 1920, on which the women of America were first given the right to vote, and that day in 1970, on which a nationwide demonstration for women's rights took place; and

WHEREAS, we honor the adoption of the 19th Amendment to the Constitution of the United States of America and recognize the many valuable contributions made by remarkable women of Durham County and around the world:

NOW, THEREFORE, BE IT RESOLVED that I, Ellen W. Reckhow, Chairman of the Durham County Board of Commissioners, do hereby proclaim August 26, 2008 as

WOMEN'S EQUALITY DAY

in Durham County. I urge all citizens to recognize and participate in its observance.

This the 11th day of August, 2008.

/s/ Ellen Reckhow, Chairman

Chairman Reckhow called forward Mrs. Kimberly Monroe, Co chair of the Women's Commission, for comments.

Ms. Monroe, on behalf of the Women's Commission, thanked the Commissioners for the proclamation and for their support of Women's Equality Day. She announced that on Tuesday, August 26, at 5:00 p.m., a light reception would be held in the Commissioners' Chambers to recognize select nominees in acknowledgement and appreciation for paving the way for all women to assume leadership roles and positions, politically, socially, and economically.

Ms. Monroe accepted the proclamation.

Consent Agenda

Commissioner Cheek moved, seconded by Vice-Chairman Page, to approve the following consent agenda items:

- a. Receive the 2007 Annual Report of Durham Open Space and Trails (DOST) Commission;
- *b. Retirement and Disposal of Law Enforcement Surplus Property (approve the resolution);
- *c. Renewal of the Memorandum of Agreement between Durham County, the City of Durham, and Triangle United Way to Implement the 10 Year Plan to End Homelessness (approve the one year renewal of the memorandum of agreement);
- *d. Budget Ordinance Amendment No. 09BCC000003—Cooperative Extension—Horticultural Community Conservation Assistance Program Funds (appropriate \$2,225 for the purpose of addressing non-point source pollution control from residential, suburban, and urban activities);
- *e. Budget Ordinance Amendment No. 09BCC000004—Cooperative Extension—4-H Youth Grant to Reduce Substance Abuse among Youth (appropriate \$18,000 for the purpose of increasing the involvement of youth in the planning and implementation of alcohol and substance abuse prevention programming); and
- f. Liability Claims and Subrogation Recovery for FY 07-08 (receive the report of Risk Management).

Commissioner Heron commended the Risk Management Department for the decrease in liability claims and the increase in subrogation recovery. County Attorney

Chuck Kitchen requested that Risk Management Director Cathy Whisenhunt stand and be recognized.

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. b. Retirement and Disposal of Law Enforcement Surplus Property (approve the resolution).

**RESOLUTION AUTHORIZING THE DURHAM COUNTY MANAGER TO DECLARE
SURPLUS AND DISPOSE OF LAW ENFORCEMENT ANIMALS NO LONGER
NECESSARY OR USEFUL FOR LAW ENFORCEMENT PURPOSES**

WHEREAS the Sheriff's Office has, and will in the future continue to have, law enforcement animals trained to assist the Sheriff's Office in the performance of its duties;

WHEREAS law enforcement animals may degrade in terms of their usefulness, stamina, health, or obedience such that they are no longer suited for law enforcement employment and as such have no true value;

WHEREAS some law enforcement animals have specific training in areas including explosives or drug detection such that public safety would not be served by their being adopted by persons of criminal intent;

WHEREAS law enforcement animals are trained to attack on command or in response to certain stimuli, such that they could present a danger to third parties and therefore should not be adopted by members of the general public;

WHEREAS there usually develops between law enforcement animals and their handlers a bond of deep trust and affection;

WHEREAS law enforcement personnel are usually best situated to understand, control and care for law enforcement animals following their retirement from active service;

WHEREAS in certain cases a law enforcement animal may need to be destroyed in order to protect the public or to alleviate the animal's pain and suffering;

WHEREAS the Sheriff of Durham County has developed and adopted a policy for evaluating the performance of law enforcement animals and determining their suitability for continued law enforcement employment and potential for adoptability; and

WHEREAS the North Carolina General Assembly has, through G.S. § 153A-176 and G.S. § 160A-266, authorized the Board of County Commissioners to prescribe regulations for the disposal of personal property of the County

BE IT THEREFOERE RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR DURHAM COUNTY THAT:

1. The Manager of Durham County, upon recommendation from the Sheriff of Durham County, or their designee, is hereby authorized to retire law enforcement animals that are no longer useful for law enforcement purposes and that upon making such a determination the animal is declared to be surplus personal property of Durham County.
2. Upon making a recommendation that a law enforcement animal should be retired the Sheriff of Durham County, or their designee, shall further determine whether the animal is adoptable and shall make a recommendation for disposition of the animal to the Manager of Durham County.
3. If the animal is determined to be adoptable the County Manager may transfer ownership and possession of a law enforcement animal that is no longer useful for law enforcement purposes from the County of Durham to any person whom:
 - (a) the Manager, after consultation with the Sheriff, or their designee, deems a suitable recipient and whose ownership and possession of the animal would be in the best interests of the canine, the County of Durham, and the public;
 - (b) assumes full responsibility for the canine's welfare including, but not limited to shelter, food, grooming, and veterinary care; and
 - (c) releases the County of Durham, the Durham County Sheriff's Office, and their employees, officials, contractors, agents, and representatives from any and all liabilities related in any way to the ownership, possession, use, condition, actions, or activities of the canine.
3. If the animal is not adoptable, the County Manager may have the animal destroyed.
4. This resolution is effective upon enactment.

Approved and enacted by the Board of County Commissioners sitting in regular session on this the 11th day of August, 2008.

/s/ Ellen Reckhow, Chairman

Consent Agenda Item No. c. Renewal of the Memorandum of Agreement between Durham County, the City of Durham, and Triangle United Way to Implement the 10 Year Plan to End Homelessness (approve the one year renewal of the memorandum of agreement).

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

Agreement to Implement
the Durham 10-Year Results
Plan to End Homelessness

This is an Agreement between the City of Durham, a North Carolina municipal corporation (City), the County of Durham, a political subdivision of the State of North Carolina (County), and Triangle United Way, Inc., a not for profit corporation duly incorporated and authorized to do business in the state of North Carolina (TUW). The effective date of this Agreement is July 1, 2008.

Background

In 2006 the City, the County and TUW (the Parties) made an unprecedented commitment to end homelessness in Durham with the adoption of the 10-Year Results Plan to End Homelessness (the Plan), which creates a plan to end homelessness in Durham by the year 2016. The Plan is hereby incorporated by reference as *Attachment A*, as if fully set forth herein.

TUW shall provide the personnel and administrative functions necessary to implement the Plan through a third party subcontractor hired by TUW. The City and the County shall fund the implementation equally, pursuant to the terms of this Agreement.

Therefore, the City, the County, and TUW enter into this Agreement to set forth their respective obligations and rights regarding the implementation of the Plan and in consideration of the mutual benefits to result from such implementation the Parties agree as follows:

SECTION 1: IMPLEMENTATION OF THE PLAN

A. Executive Team. The Executive Team, as described in the Plan, shall oversee and administer the Plan and shall directly engage all individuals and organizations who have interests or roles in Plan implementation. The Executive Team shall, among other things, serve as the body providing oversight for the third party subcontractor as it implements the Plan.

B. Management Team. The Management Team will consist of representatives from the City, the County, TUW, and the third party subcontractor, and will meet as needed to discuss the contractual agreements between these parties related to the Plan. In addition, these parties will prepare for the City and County's annual budget process.

C. Responsibilities of United Way. TUW shall at its sole cost and expense:

1. Enter into a subcontract with a third-party subcontractor (Implementing Subcontract and Implementing Subcontractor) previously selected through a competitive RFP process to implement the Plan. The minimum terms of the Implementing Subcontract are outlined in Subsection 2 below. The Executive Team and the City and County Managers shall approve the Implementing Subcontract between TUW and the Implementing Subcontractor prior to its final execution.

2. The Implementing contract shall include the following minimum terms: (i) Specify measurable and time-bound deliverables for the Implementing Subcontractor that meet the expectations of the Executive Team. (ii) Payment to the Implementing Subcontractor shall be dependent upon completion of or demonstrated progress toward completion of the deliverables. Deliverables for the fiscal year 2008-2009 are attached as *Attachment B* to this Agreement and shall be included in the Implementing Contract.
3. Serve as a pass-through for funding from the City and the County to the Implementing Subcontractor based on the schedule of agreed upon deliverables in *Attachment B*. TUW shall invoice the City and the County after reviewing and approving the deliverables and shall reimburse the Implementing Subcontractor upon receipt of payment.
4. Work directly with the Executive Team and Management Team to monitor the activities of the Implementing Subcontractor no less frequently than every 90 days.
5. Assist the Executive Team in providing a mid-year report to the City and County Managers on or before March 31, 2009.
6. Submit a proposed budget to the City and County Managers on or before March 31, 2009 for the Fiscal Year that begins July 1, 2009, for their review and approval.

C. Responsibilities of the City and the County. The City and County shall jointly and equally fund the cost of the Implementation Subcontract subject to approval by the City and the County's governing bodies, and shall pay TUW no more than \$67,790 each based on the accomplishment of deliverables set forth in *Attachment B*.

SECTION 2. TERM AND TERMINATION

This Agreement shall be effective on July 1, 2008 and shall remain in effect through June 30, 2009 (the Term), unless terminated earlier as provided herein.

This Agreement may be terminated by any Party upon notice given in writing to the non-terminating Parties no less than 90 days prior to the intended date of termination. The Implementation Subcontract between TUW and any Implementing Subcontractor shall include a similar termination provision.

Effect of Termination. Upon termination of this Agreement for any reason, (i) all outstanding invoices received by the County or the City on or before the date of termination shall be paid, and (ii) the obligations of the Parties hereunder shall be immediately terminated.

SECTION 3. AMENDMENTS

This Agreement may be amended at any time upon mutual written agreement of all three Parties.

SECTION 4. GOVERNING LAW

This Agreement shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this Agreement shall be brought in the General Court of Justice in the County of Durham and the State of North Carolina.

SECTION 5. ENTIRE AGREEMENT

This Agreement together with the Plan shall constitute the entire understanding among the three Parties, and shall supersede all prior understandings and agreements relating to the subject matter hereof.

SECTION 6. CONTRACT NOT DIVISIBLE

This Agreement is not divisible. The obligations exchanged by TUW, the City and the County under each part of this Agreement constitute consideration for each and every part of this Agreement.

SECTION 7. HEADINGS

The subject headings of the paragraphs are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by all three Parties together, and no interpretation shall be made to the contrary.

SECTION 8. ASSIGNMENT

This Agreement shall not be assigned without the express written approval of all three Parties.

SECTION 9. ATTACHMENTS

The following attachments are made a part of this Agreement:

- Attachment A: 10-Year Results Plan to End Homelessness in Durham
- Attachment B: Implementation Contract between TUW and DAHC
- Attachment C: List of Deliverables and Budget for FY 2008-2009

In case of conflict between any attachment and the text of this Agreement excluding the attachment, the text of this Agreement shall control.

Consent Agenda Item No. d. Budget Ordinance Amendment No. 09BCC000003—Cooperative Extension—Horticultural Community Conservation Assistance Program Funds (appropriate \$2,225 for the purpose of addressing non-point source pollution control from residential, suburban, and urban activities).

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000003

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2008-09 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$395,292,463	\$2,225	\$395,294,688

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Economic and Physical Development	\$ 6,152,321	\$2,225	\$ 6,154,546

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 11th day of August, 2008.

Consent Agenda Item No. e. Budget Ordinance Amendment No. 09BCC000004—Cooperative Extension—4-H Youth Grant to Reduce Substance Abuse among Youth (appropriate \$18,000 for the purpose of increasing the involvement of youth in the planning and implementation of alcohol and substance abuse prevention programming).

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000004

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2008-09 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$395,294,688	\$18,000	\$395,312,688

Expenditures:

Activity

GENERAL FUND

Economic and Physical

Development	\$ 6,154,546	\$18,000	\$ 6,172,546
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All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 11th day of August, 2008.

Consideration of Findings from the Environmental Affairs Board, the Durham County Health Department, and the Durham County Department of Emergency Management relative to the Proposed Location of the National Bio and Agro-Defense Facility (NBAF) in Granville County

Chairman Reckhow announced that this area is being considered for a proposed NBAF; six alternative sites were identified in the *Federal Register* on July 31, 2007. The Board of County Commissioners requested that the EAB and the County departments of Public Health and Emergency Management evaluate the impact of the proposed location of the NBAF on the 249-acre tract of land in Butner referred to as the Umstead Research Farm, and present its findings to the Board of Commissioners. The U.S. Department of Homeland Security has proposed to augment the study of foreign animal diseases that are threats to agriculture in the United States by expanding its research capabilities through the construction of a National Bio and Agro-Defense Facility. A Draft Environmental Impact Statement (EIS) for all sites was completed by the U.S. Department of Homeland Security in June.

Chairman Reckhow called on Joyce Martin, Policy Member on the EAB, forward for comments. Ms. Martin's comments follow:

I am Joyce Martin, Policy member of the Environmental Affairs Board. I represent the EAB and the committee that analyzed the Draft Environmental Impact Statement (DEIS) that we are discussing tonight—Rochelle Araujo, Deborah Luecken, Karalyn Colopy, and myself. I appear before you tonight to present the report of the Environmental Affairs Board in response to the DEIS prepared by the Department of Homeland Security (DHS) in compliance with the National Environmental Policy Act.

As you know, DHS has proposed constructing a National Bio and Agro-Defense Facility (NBAF) to study highly contagious viruses mainly affecting animals at one of six sites in the nation, including a site at the Umstead Research Farm in Granville County near its border with Durham County. The viruses to be studied are: 1) BSL-3 diseases (e.g. African Swine Fever, Classical Swine Fever, Contagious Bovine Pleuropneumonia, Foot and Mouth Disease, Japanese Encephalitis, and Rift Valley Fever [zoonotic disease—the disease can skip from animals to humans]); and 2) BSL-4 diseases (e.g. Hendra virus and Nipah virus [zoonotic]).

The EAB first looked at this issue in early 2008 and completed an initial study of potential environmental effects of the NBAF. At that time, the EAB was concerned about the potential impacts of the facility; we did not have detailed information to quantify or otherwise assess the impacts. We prepared for the Commissioners a list of concerns and an additional eleven questions that it hoped to find answers to in the DEIS.

The purpose of the facility is to 1) provide a biosafety lab at the levels of 3 and 4 to replace the aging Plum Island Facility; 2) provide for advanced testing of these very serious viruses; 3) train veterinarians and students to treat the diseases caused by the viruses; and 4) provide collaborative research opportunities to researchers from state, federal, and university institutions.

The DEIS was issued by DHS on June 27, 2008. It looks at impacts on air, water, and human health to visual, socioeconomic, and environmental justice. For each site, the DEIS applies one of two potential facility designs and county-or region-wide data to identify issues associated with the construction and operation phases. In doing so, this leaves a number of uncertainties about specific practices and more localized implications unaddressed. We have spent the time since the release of the DEIS reviewing the document and researching its impact on the City of Durham and the County of Durham.

We also hosted a public hearing last Wednesday, August 6. The document we provided you with last Friday has four parts: 1) a memo containing an executive statement, background information, a table related to the questions we raised last March, a summary of environmental concerns, and recommendations; 2) Attachment B is a copy of the concerns raised in March; 3) Attachment B provides specific details on issues raised and is in a format that can be supplemented or modified and submitted to DHS before August 25; and 4) comments provided by citizens at the August 6 workshop. The major issues (both quantifiable and non-quantifiable) that we identify in the memo and Attachment B are: 1) hazardous waste disposal, specifically for infectious animal carcasses; 2) water consumption and its effect on local and regional water supplies during prolonged drought; 3) water quality degradation in local waterways due to stormwater runoff and discharge of treated wastewater; 4) air quality degradation in the region due to emissions from traffic, construction, and operations; 5) risk of pathogen releases and disease outbreaks; 6) degradation of rural character, including increased traffic, noise pollution, light pollution, and visual pollution; 7) effects on endangered or rare wildlife species; and 8) long-term commitments to safe maintenance of the facility and mission fidelity. In addition, the incomplete and sometimes cursory treatment of these issues made thoughtful analysis more difficult.

You can find more in-depth discussion of these concerns in the table on pages 3-6 of the memo and Attachment B. While the documents are lengthy and provide specific environmental concerns, our primary issue with the DEIS was the lack of in-depth consideration of site-specific issues and the

vagueness that exists on several critical aspects of the project (e.g. disposal of waste, determination of who will operate).

While we assume these matters will be more definitively addressed in the Final Environmental Impact Statement (FEIS) due in late fall, that document does not provide for public comment.

Deborah Luecken and I would be happy to take your questions.

Per a question posed by Commissioner Heron, Ms. Martin responded that in the EAB review of the EIS, no consideration was found for confined populations near the site; moreover, no mention was made of how services for the facility would be provided.

Chairman Reckhow thanked Ms. Martin and all of the members of the subcommittee for their hard work. "Please convey the Commissioners' thanks to the EAB as a whole and to all of the members of the subcommittee."

Brian Letourneau, Public Health Director, was called forward by Chairman Reckhow for remarks.

Mr. Letourneau's stated the following:

On July 24, 2008, a committee comprised of three Public Health Department staff and two Board of Health members met to discuss general public health issues related to the proposed National Bio and Agro-Defense Facility in Butner, North Carolina. Attending were myself; Arlene Sena, MD, MPH, Medical Director; Robert M. Brown LSS, RS, Environmental Health Director; William H. Burch, R.Ph., Chairman, Board of Health; and James M. Miller, DVM, Board of Health. Prior to meeting, each participant reviewed sections of the June 2008 NBAF Draft Environmental Impact Statement pertaining to the Umstead Research Farm Site in Butner.

Following are the issues discussed and identified during the meeting: The committee reviewed the list of diseases to be studied at the NBAF as indicated on their website. Four diseases (Rift Valley Fever, Japanese encephalitis, Nipah virus and Hendra virus) are known to infect humans through mosquito-borne transmission or close contact to body fluids of infected animals. The other diseases (Foot and Mouth Disease, Classical Swine Fever, African swine fever, and Contagious Bovine Pleuropneumonia) only cause animal infections, but can have significant consequences if transmitted to domestic animals. The committee also reviewed the Accident Scenario Summary (Table 3.12.3-1) in the NBAF document.

- 1) There is concern about the potential for the entry and subsequent escape of infected mosquito vectors from the facility.
- 2) How feasible will it be to contain a release that extends beyond the facility? What actions are planned to control and mitigate such a release? The group questioned *local resources and capability to address and control:*

- a) The public health consequences from a release such as a mosquito-borne virus and,
 - b) The consequences to livestock in the event of the release of foot and mouth disease or other large animal diseases.
- 3) In the event of a release, who will be the first responders? How will they be committed, trained and equipped (and by whom)?
 - 4) In light of accidents that have occurred at other biolab facilities, there is concern about the adequacy of safety barriers and procedural controls to ensure that no accidents will occur. These concerns also were expressed with respect to hazardous waste disposal for large animal research.
 - 5) What plans, if any, will be in place to mitigate the economic impact of a release to the agricultural industry?
 - 6) The Environmental Impact Statement ranks the overall risk for the Butner site as moderate. Are there any sites currently under review with a risk profile less than moderate?
 - 7) The Board of County Commissioners may wish to retain the services of an independent consultant to assess the relative risk and reward of locating this facility at the Butner site.

As Health Director, I can find no reason to recommend locating this facility at Butner. The risk is high; the reward does not equal the risk.

Jeff Batten, Emergency Management Director, reviewed his findings. His comments follow:

Per your request, I have reviewed the Draft Environmental Impact Statement of June 2008. I have also reviewed the May 22, 2008 Testimony Before the Sub-Committee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives by the United States Government Accountability Office, entitled, "High Containment Biosafety Laboratories—DHS Lacks Evidence to Conclude That Foot and Mouth Disease Research Can Be Done Safely on the US Mainland."

I have several concerns if this facility were to be located in Butner, at the Durham County border:

1. The potential for some type of a mosquito-borne virus outbreak. How can the Department of Homeland Security ensure we would not have problems with mosquitoes? What would DHS do, should such an outbreak occur? Our area hospitals could not handle a large surge should some type of outbreak occur. Would DHS support and manage the surge at alternate care facilities?
2. Some of the diseases that are proposed to be studied at this new facility are not currently allowed, by federal law, to be studied on the US mainland. I believe this should be an important factor for local elected officials to consider when deciding whether or not to support the location of this proposed facility within their community. "Can this be done safely?" is a question to be asked. According to the GAO report of May 22, 2008, their findings seem to indicate that DHS lacks evidence to conclude that Foot and Mouth Disease research can be done safely on the US Mainland.

3. Who will provide fire, EMS, rescue, and hazardous materials support to the Butner Public Safety Department for this facility? Will DHS provide in-house emergency services? Will the federal government provide additional resources to the local emergency responders to support his facility?
4. According to page D-8 of the Impact Statement, the economic impact scenario for a Foot and Mouth Disease outbreak would be the greatest in Kansas and North Carolina. Estimates from the study put the impact on North Carolina at \$3.5 billion. With a single outbreak, foreign trade bans may last up to 185 days.
5. Who will pay for the cost of the required infrastructure and traffic improvements required for construction and operation of the proposed facility? It appears the Butner site requires improvements in all areas reviewed.

Chairman Reckhow thanked Mr. Batten for attaching to his memo the U.S. Government Accountability Office (GAO) summary dated May 22, 2008, in which GAO concludes that foot-and mouth disease cannot be studied safely on the U.S. mainland.

Chairman Reckhow called on the following signed speakers for their remarks:

Christopher Tiffany, 611 E. Lawson Street, Durham 27701

Senator Doug Berger, 622 Legislative Office Building, Raleigh 27603, representing Granville, Franklin, Vance, and Warren Counties

John Monroe, 6404 Amed Road, Bahama 27503

Hope Taylor, 2009 Chapel Hill Road, Durham 27707, representing Clean Water for NC

Victoria Peterson, PO Box 101, Durham 27702

Robert Weeks, 6416 Amed Road, Bahama 27503

Jesse Wilkins, 1032 King Drive, Butner 27509

Susan Pochapsky, 901 Vickers Avenue, Durham 27701

Garland Walker, 105 E. G. Street, Butner 27509

H.G. Thacker, 5122 Bahama Rd, Rougemont 27572

Milo Pyne, 806 Vickers Avenue, Durham 27701, representing Durham People's Alliance

Teryle Whitfield, 4901 Bahama Road, Rougemont 27572, representing Chandler Regional Hospital

Kathryn Spann, 4720 Bahama Road, Rougemont 27572, representing GNAT

Helen Fischer, 3817 Westcrest Street, Durham 27707

Lisa Houlik, 810 East C Street #57, Butner 27509

Suzanne Moody Smith, 1721 Dove Road, Creedmoor 27522

Joe Pfister, 2904 Hillsborough Road, Durham 27705

Each citizen voiced strong opposition to the proposed location of the National Bio and Agro-Defense Facility (NBAF) in Granville County. The following reasons were cited:

- Poses life-threatening diseases
- Issues with managing emergency events or fires at a large facility
- No assurance for adequate resources for EMS and Public Health

- Livestock infection
- Concerns with public water supply
- Would not be a great place to raise children
- Uncertainties about specific practices
- Lack of safety
- Risk of pathogen releases and disease outbreaks
- Lack of specificity and detail in the report

Chairman Reckhow thanked all the speakers for their remarks. She commented that the EAB report included a draft letter stating serious concerns and unanswered questions. She requested that the Board go further and oppose the location of the facility in Butner by writing a letter or sign on to the letter drafted by Senator Berger.

Vice-Chairman Page stated his support for a resolution and any other action the Commissioners wish to take to oppose the facility. He stated his concerns about the residents, particularly the confined residents, and about unanswered questions and inconsistencies.

Commissioner Cheek stated that he could not take a position to oppose the facility at this time. He stated that after the August 25 deadline for comments has passed and the final Environmental Impact Statement is reviewed, it would then be appropriate for the Board to take a position. "It is premature at this point to state a position."

Commissioner Heron strongly recommended that the facility be upgraded at its current location on Plum Island. She stated that she would not be in support of the facility.

Commissioner Cousin stated that he would vote "no".

Chairman Reckhow concurred with Commissioner Heron and Commissioner Cousin. She referred to comments made by the Public Health Director about Durham being rated as a moderate risk. The Plum Island facility was the only facility rated low. Chairman Reckhow stated that it appears to be too much of a risk for the community, as well as the region, to have this type of facility in close proximity to people and institutions that house frail people. She urged the Board to weigh-in strongly and strengthen the draft letter written by the EAB to come out in opposition to the proposed facility. She also suggested that the Board send a letter to ask the consortium to withdraw the proposal.

Commissioner Heron moved, seconded by Commissioner Cousin, to oppose the proposed location of the National Bio and Agro-Defense Facility (NBAF) in Granville County; that the Board weigh-in strongly and strengthen the draft asking the consortium to withdraw the proposal.

The motion carried with the following vote:

Ayes: Cousin, Heron, Page, and Reckhow
Noes: Cheek
Absent: None

Chairman Reckhow stated that she would work with the County Manager to draft a letter; a copy would be sent to the Board.

County Manager Ruffin informed the Board that a record of decision narrows the legal grounds on which an action can be presented in the courts; it all but eliminates an environmental challenge. He advised the Board to proceed as soon as possible.

2009 Durham County Legislative Agenda

Deborah Craig-Ray, Assistant County Manager, reported that the General Assembly will convene on January 28, 2009. She stated that in preparation for the 2009-2011 biennium session, the North Carolina Association of County Commissioners (NCACC) has asked counties to begin consideration of any legislative issues that have statewide implications. The NCACC will begin its legislative process by receiving requests by September 5 and vetting them through its Legislative Goals development process this fall. Seven NCACC steering committees will review proposed goals and forward recommendations to the full board. The Legislative Goals process will proceed through the fall and winter, culminating in the Legislative Goals Conference to be held January 15-16, 2009 in Pitt County. At the conference, the NCACC membership will approve an agenda to present to the General Assembly.

Ms. Craig-Ray informed Chairman Reckhow that the County's final legislative agenda would be presented to the Board for approval at a future worksession. She requested that the Board and staff research the items currently on the agenda.

Ms. Craig-Ray asked the Board to consider meeting with the Durham Delegation prior to the end of the year.

Vice-Chairman Page stated that at the National Association of Counties annual conference, he learned of several issues facing counties across the nation. He inquired about relaying such issues, which may also apply to Durham County, to the Board.

Ms. Craig-Ray replied that if such issues can be applied to Durham County, then she and the County Attorney would do the appropriate research and present their findings to the Board.

Commissioner Heron asked about the NCACC steering committees' meeting schedules to provide input on the legislative agenda.

Ms. Craig-Ray replied that at the NCACC Annual Conference in New Bern next week, Jim Blackburn, Taxation and Finance Steering Committee staff liaison, will present a final report and will likely have a schedule prepared to indicate the assignment of agenda items to appropriate committees.

Chairman Reckhow inquired about addressing the NCACC in regards to increasing the compulsory school attendance age.

County Attorney Chuck Kitchen noted that if an issue were included in the State's goals for a particular year, then it would automatically be included the following year.

Ms. Craig-Ray communicated that increasing the compulsory school attendance age was discussed at a public education meeting, but it did not get included in the State's final goals.

Chairman Reckhow directed staff to add to the agenda a request for increasing the compulsory school age. She recommended presenting a proposal similar to the resolution adopted by the County, City Council, and Durham Public Schools Board of Education, which suggests increasing the age to 17 years old within two years after the legislation passes, then up to 18 after four years.

Chairman Reckhow also directed staff to add to the agenda a request for sales tax reimbursement for public schools.

Chairman Reckhow asked Ms. Craig-Ray to review past County legislative agenda items to determine if any were not considered by NCACC and include them on this year's legislative agenda.

County Attorney Kitchen informed the Board that if a county goal is not included in the state's goals, NCACC may still support it if a separate bill is introduced.

Ms. Craig-Ray noted that several urban county representatives plan to meet at the NCACC Annual Conference to discuss issues relevant to larger counties.

Ms. Craig-Ray stated that the 2009 County Legislative Agenda would be finalized and presented at the September Worksession.

Chairman Reckhow added that the County Manager would suspend the rules at the September Worksession for the Board to vote on the final legislative agenda.

Chairman Reckhow recognized signed speaker Victoria Peterson, PO Box 101, Durham 27702, for comments.

Ms. Peterson expressed concern that community concerns are not considered for the County's legislative agenda. She requested to know when and where the legislative steering committees meet so that the community can participate.

Chairman Reckhow explained that the steering committees meet in Raleigh and include the following areas: Human Services, Agriculture, Education, Taxation and Finance, Environment, Justice and Public Safety, and Intergovernmental Relations. They are all sponsored by the NCACC.

Closed Session

Commissioner Cheek moved, seconded by Vice-Chairman Page, to adjourn to Closed Session to discuss matters relating to the location or expansion of a business or industry pursuant to 143-318.11(a)(4).

The motion carried unanimously.

Reconvene to Open Session

Chairman Reckhow announced that the Board met in Closed Session; directives were given to staff; no action was taken.

Adjournment

There being no further business, Commissioner Reckhow adjourned the meeting at 9:55 p.m.

Respectfully submitted,

Vonda Sessoms, CMC
Clerk to the Board